



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH, NJ 07033-0530

COPY MAILED

MAR 20 2006

OFFICE OF PETITIONS

In re Patent No. 6,984,728 :
Issued: January 10, 2006 :
Application No. 09/994,064 : PATENT TERM ADJUSTMENT
Filed: November 6, 2001 :
Atty. Dkt. No.: SY01106KQB :

This is a decision on the "REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(b) OF THE PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) INDICATED IN THE NOTICE OF ALLOWANCE," filed January 18, 2006. This matter is being properly treated under 37 CFR 1.705(d) as a timely filed application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 C.F.R. § 1.705(d) is DISMISSED.

The above-identified application matured into U.S. Patent No. 6,984,728 on January 10, 2006. The instant request for reconsideration was timely filed January 18, 2006 in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 361 days. Applicant argues that because the reduction of five days under 37 CFR 1.704(b) overlaps with the reduction of 120 days under 37 CFR 1.704(c)(10), the overall adjustment of 494 days was improperly reduced five days.

A review of the application history reveals that in accordance with 37 C.F.R. §§ 1.702(a)(4) and 1.703(a)(6), an adjustment of 494 days can be attributed to the Office. The adjustment of 494 days was properly reduced 133 days resulting an overall adjustment of 361 days as the actual patent indicated.

The 8 day reduction under 37 CFR 1.704(b) is uncontested.

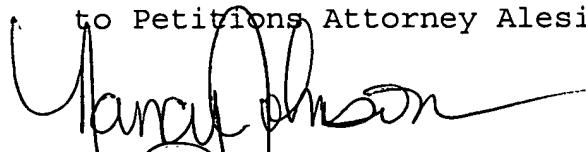
The 5 day reduction under 37 CFR 1.704(b) commenced April 29, 2004, the day after the date that is three months after the date that the Notice of Allowance was mailed, and ended May 3, 2004, the date the issue fee was received.

In according a period of reduction of 120 days pursuant to 37 CFR 1.704(c)(10), the days of overlap were considered. The period of reduction is based on a day-to-day accounting. In this instances, the period of reduction, pursuant to 37, CFR 1.704(c)(10) commenced on April 15, 2004, the date of filing of the amendment, and ended on February 7, 2005, the date of mailing of the Office's response. Not counting the overlap days of April 29, 2004 to May 3, 2004 for the period of reduction under 1.704(b), the period runs from April 15, 2004 to April 28, 2004 and from May 4, 2004 to February 7, 2005. This period, not counting the 5 days, adds up to 294 days. In view thereof, the lesser period of 120 days was entered.

It is concluded that the patent term adjustment of 361 days indicated on the patent is correct.

Any request for reconsideration of this decision must be submitted within two (2) months of the mail date indicated above. Extensions of time under 37 CFR 1.136 are not permitted.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions